

AMENDED IN ASSEMBLY JUNE 19, 2002

AMENDED IN ASSEMBLY MAY 14, 2002

AMENDED IN SENATE JANUARY 24, 2002

AMENDED IN SENATE MARCH 27, 2001

**SENATE BILL**

**No. 812**

**Introduced by Senator Sher**

February 23, 2001

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An act to amend Sections 42801.1, 42823, 42840, and 42841 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 812, as amended, Sher. Air pollution: California Climate Action Registry.

(1) Existing law requires the Secretary of the Resources Agency to establish the California Climate Action Registry as a nonprofit public benefit corporation, governed by a prescribed board of directors, that is required to record and register voluntary greenhouse gas emissions reductions made by California entities after 1990. Existing law requires the registry to provide referrals to approved providers for advice on designing programs to establish emissions baselines and to monitor and track greenhouse gas emissions, establishing emissions reduction goals, and designing and implementing organization-specific plans that improve energy efficiency or utilize renewable energy, or both, and that are capable of achieving emission reduction targets.

This bill would require the registry to also provide referrals to approved providers for advice on incorporating conservation and best management practices of native forest reservoirs as a mechanism to

assist participants in the attainment of emissions reduction goals and the reporting of emissions results.

(2) Existing law requires the registry to perform various functions, including, among other things, adopting standards for verifying emissions reductions, adopting a list of approved auditors that would verify emission reductions, establishing emissions reduction targets, designing and implementing efficiency improvement plans, maintaining a record of all emission baselines and reductions, and recognizing, publicizing, and promoting entities that participate in the registry.

This bill would require the registry to adopt procedures and protocols for the ~~various offsets that a participant may use to mitigate its emissions and to report these emissions and offsets separately~~ *reporting and certification of greenhouse gas emission reductions resulting from a project or an action of a participant*. The bill would also require the registry, in coordination with the Resources Agency, to adopt procedures and protocols, including specified criteria, for the monitoring, estimating, calculating, reporting, and certifying of carbon stores and carbon dioxide emissions resulting from the conservation and conservation-based management of native forest reservoirs in California in order for registry participants to include the results of those conservation activities as a participant's registered emissions results, or as a part thereof.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 42801.1 of the Health and Safety Code  
 2 is amended to read:  
 3 42801.1. For purposes of this chapter, the following terms  
 4 have the following meanings:  
 5 (a) "Annual emissions results" means the participant's  
 6 applicable data on the direct and indirect release of greenhouse  
 7 gases in one particular year, ~~including the sequestration and stocks~~  
 8 ~~of forest carbon~~. *In addition to annual emissions results a*  
 9 *participant may report data annually on emission reductions from*  
 10 *a project or other action, including the sequestration of stocks of*  
 11 *carbon in forests.*

(b) “Baseline” means a datum against which to measure greenhouse gas emissions performance over time, usually annual emissions in a selected base year. For the purposes of this subdivision, the baseline shall start on or after January 1, 1990.

(c) “Certification” means the determination of whether a given participant’s greenhouse gas emissions inventory (either baseline or annual result) has met a minimum quality standard and complied with an appropriate set of registry-approved procedures and protocols for submitting emissions inventory information. The process for certification of emissions results will be specified within the procedures and protocols approved for industry-specific emissions inventory reporting, and may involve a range of options depending upon the nature of the emissions, complexity of a company’s facilities and operations, or both, and the procedures deemed necessary by the registry board to validate a participant’s emissions information.

(d) “De minimis emissions” means emissions that are below a certain threshold, when summed across all applicable sources of the participating entity. The State Energy Resources Conservation and Development Commission shall recommend to the registry for adoption a threshold emissions level for each type of greenhouse gas emission that shall be considered de minimus.

(e) “Emissions” means the release of greenhouse gases into the atmosphere.

(f) (1) “Emissions inventory” means an accounting of the amount of greenhouse gases discharged into the atmosphere. It is generally characterized by all of the following factors:

(A) The chemical or physical identity of the pollutants included.

(B) The geographic area covered.

(C) The institutional entities covered.

(D) The time period over which emissions are estimated.

(E) The types of activities that cause emissions.

(2) An emissions inventory shall include sufficient documentation and supporting data to make transparent the underlying assumptions and calculations for all of the reported results.

(g) “Greenhouse gases” includes all of the following gases: carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

(h) “Material” means any emission of greenhouse gas that is not de minimis.

(i) “Native forest” means forests classified in the Department of Fish and Game’s 1988 edition of “A Guide to Wildlife Habitats of ~~California~~”, *California*,” or its approved successor equivalent, that are composed of species within those classifications.

(j) “Natural forest management” means forest management practices that promote and maintain native ~~forest~~ *forests* comprised of multiple ages and mixed native species in the overstory and understory, and shrub and herb layers.

SEC. 2. Section 42823 of the Health and Safety Code is amended to read:

42823. The registry shall perform all of the following functions:

(a) Provide participants with referrals to approved providers for technical assistance and advice, upon the request of a participant, on any or all of the following:

(1) Designing programs to establish greenhouse gas emissions baselines and to monitor, estimate, calculate, report, and certify greenhouse gas emissions.

(2) Establishing emissions reduction goals based on international or federal best practices for specific industries and economic sectors.

(3) Designing and implementing organization-specific plans that improve energy efficiency or utilize renewable energy, or both, and that are capable of achieving emission reduction targets.

(4) Incorporating conservation and best management practices of native forest reservoirs as a mechanism to assist participants in the attainment of emissions reduction goals and the reporting of emission results.

(b) In coordination with the State Energy Resources Conservation and Development Commission, the registry shall adopt and periodically update a list of organizations recognized by the state as qualified to provide the detailed technical assistance and advice in subdivision (a) and assist participants in identifying and selecting providers that have expertise applicable to each participant’s circumstances.

(c) The registry shall adopt procedures and protocols for the ~~various offsets that a participant may use to mitigate its emissions.~~  
~~The registry shall report participants’ gross emissions and offsets~~

1 ~~separately.~~ *reporting and certification of greenhouse gas emission*  
2 *reductions resulting from a project or an action of a participant.*  
3 *A participant shall report emission reductions as a separate item*  
4 *in its annual emissions results.*

5 (d) In coordination with the Resources Agency and consistent  
6 with the data and information acquired and developed pursuant to  
7 subdivision (b) of Section 25730 of the Public Resources Code, the  
8 registry shall adopt procedures and protocols for the monitoring,  
9 estimating, calculating, reporting, and certifying of carbon stocks  
10 and carbon dioxide emissions resulting from the conservation and  
11 conservation-based management of native forest reservoirs in  
12 California in order to permit participants to include the results of  
13 those activities as a *participant's* registered emissions results, or as  
14 a part thereof. Procedures and protocols shall require, at a  
15 minimum, that those forestry activities meet the following criteria  
16 in order to be reported as a participant's emissions results, or as a  
17 part thereof:

18 (1) Forestry activities that are reported as a participant's  
19 emissions results, or as a part thereof, shall be based on  
20 management practices that exceed applicable federal, state, and  
21 local land use laws and regulations, including, but not limited to,  
22 the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8  
23 (commencing with Section 4511) of Part 2 of Division 4 of the  
24 Public Resources Code).

25 (2) Forestry activities that are reported as a participant's  
26 emissions results, or a part thereof, shall be permanently dedicated  
27 to forest use through a restriction, granted in perpetuity, on the use  
28 that may be made of real property that is consistent with the  
29 conservation purposes listed in Section 170(h)(4)(A)(ii) and (iii)  
30 of Title 26 of the United States Code.

31 (3) Forestry activities reported as ~~emission~~ *emissions* results, or  
32 as a part thereof, shall reflect the amount of time that net carbon  
33 gains are stored.

34 (4) Forestry activities maintain and promote native forest  
35 types.

36 (5) If emissions results are derived from forest lands  
37 undergoing harvest and regeneration, those results are derived  
38 from natural forest management practices.

39 (e) Adopt procedures and protocols for certification of reported  
40 baseline emissions and emissions results. When adopting

1 procedures and protocols for the certification, the registry shall  
2 consider the availability and suitability of simplified techniques  
3 and tools.

4 (f) Qualify third-party organizations that have the capability to  
5 certify reported baseline emissions and emissions results, and that  
6 are capable of certifying the participant-reported results as  
7 provided in this chapter.

8 (g) Adopt procedures and protocols, including a uniform  
9 format for reporting emissions baselines and emissions results to  
10 facilitate their recognition in any future regulatory regime.

11 (h) Maintain a record of all certified greenhouse gas emissions  
12 baselines and emissions results. Separate records shall be kept for  
13 direct and indirect emissions results. The public shall have access  
14 to this record, except for any portions of a participant's emissions  
15 results that a participant may deem confidential.

16 (i) Encourage organizations from various sectors of the state's  
17 economy, and those from various geographic regions of the state,  
18 to report emissions, establish baselines and reduction targets, and  
19 implement efficiency improvement and renewable energy  
20 programs to achieve those targets.

21 (j) Recognize, publicize, and promote participants.

22 (k) In coordination with the State Energy Resources  
23 Conservation and Development Commission and the State Air  
24 Resources Board, adopt industry-specific reporting metrics at one  
25 or more public meetings.

26 SEC. 3. Section 42840 of the Health and Safety Code is  
27 amended to read:

28 42840. (a) Participants shall utilize the following reporting  
29 procedures to establish a greenhouse gas emissions baseline,  
30 participants shall report their certified emissions for the most  
31 recent year for which they have complete energy use and fuel  
32 consumption data as specified in this chapter. Participants that  
33 have complete energy use or fuel consumption data for earlier  
34 years that can be certified may establish their baseline as any year  
35 beginning on or after January 1, 1990. After establishing baseline  
36 emissions, participants shall report their certified emissions results  
37 in each subsequent year in order to show changes in emissions  
38 levels with respect to their baseline year. Participants may report  
39 annual emission results without establishing an emissions  
40 baseline. Participants shall also report using industry-specific



1 metrics once the registry adopts an industry-specific metric for the  
2 industry in question.

3 (b) (1) Participants shall report direct emissions and indirect  
4 emissions separately. Direct emissions are those emissions from  
5 applicable sources that are under management control of a  
6 participating entity, including onsite combustion, fugitive  
7 noncombustion emissions, and vehicles owned and operated by  
8 the participant. Indirect emissions that are required to be reported  
9 by participants are those emissions embodied in net electricity and  
10 steam imports, including offsite steam generation and district  
11 heating and cooling. Participants are encouraged, but are not  
12 required, to report other indirect emissions based on guidance that  
13 is adopted by the registry.

14 (2) On or after January 1, 2004, the registry board, in  
15 coordination with the State Energy Resources Conservation and  
16 Development Commission, may revise the scope of indirect  
17 emission source types that are required to be reported by  
18 participants specified in paragraph (1) after a public workshop and  
19 review process conducted by the registry if all of the following  
20 requirements have been met.

21 (A) The State Energy Resources Conservation and  
22 Development Commission has approved that revision at a public  
23 hearing following a public workshop.

24 (B) Prior to approving that proposed revision, the commission  
25 determines all of the following:

26 (i) A reasonable and generally-accepted methodology exists  
27 that will enable participants to accurately estimate and report the  
28 emissions for the indirect source type in question.

29 (ii) The proposed revision will not create an unreasonable  
30 reporting burden on the participants.

31 (iii) The proposed revision is necessary to achieve the purposes  
32 listed in Section 42810.

33 (C) The registry, at any time it acts to revise the scope of  
34 indirect emission source types that are required to be reported by  
35 participants, establishes a timeframe for the phasein of the revised  
36 scope so that participants shall have at least four months before the  
37 start of the next annual reporting cycle that incorporates the  
38 revised scope.



(3) In cases of joint ownership, emissions are reported by the managing entity, unless the owners decide to report emissions on a pro rata basis.

(4) Participants shall not be required to report emissions of any greenhouse gas that is de minimis in quantity, when summed up across all applicable sources of the participating entity. The State Energy Resources Conservation and Development Commission shall recommend to the registry a definition of de minimis emissions that reasonably accounts for differences in the size, activities, and sources of direct and indirect baseline emissions of participants, and is consistent with the goals and intent of subdivision (f) of Section 42801.

(c) (1) All participants shall report direct and indirect carbon dioxide (CO<sub>2</sub>) emissions that are material to their operations.

(2) The registry shall also encourage participants to monitor and report emissions of the following gases:

(A) Hydrofluorocarbons (HFCs).

(B) Methane (CH<sub>4</sub>).

(C) ~~Oxides of nitrogen~~ Nitrous Oxide (N<sub>2</sub>O).

(D) Perfluorocarbons (PFCs).

(E) Sulfur hexafluoride (SF<sub>6</sub>).

(3) The report of information specified in paragraph (2) is optional for three years after a participant joins the registry. After participating in the registry for a total of three years, participants shall report emissions required by both paragraphs (1) and (2).

(4) Emissions of all gases under this subdivision shall be reported in mass units.

(d) The basic unit of participation in the registry shall be an entity in its entirety such as a corporation or other legally constituted body, any city or county, and each state government agency. The registry shall not record emissions baselines and reductions for individual facilities or projects, except to the extent they are included in an entity's emissions reporting.

(1) Corporations may report emissions baselines and annual emissions results from subsidiaries if the parent corporation is clearly defined.

(2) Participants shall report emissions results from all of their applicable sources in the state when they initially register.

(3) Participants may, and are encouraged to, at any time, register emissions from all applicable sources based in the United



1 States, so long as this reporting meets all the other requirements  
2 established by this chapter. Those participants with emissions in  
3 other states that report California emissions only may not be able  
4 to receive equal consideration for their emissions records in future  
5 national or international regulatory regimes relating to greenhouse  
6 gas emissions. In addition, participants with operations outside of  
7 the United States are encouraged to register their total worldwide  
8 emissions baselines and annual emissions results. Within three  
9 years, the registry shall review and report to the Legislature with  
10 a recommendation on whether the registry should require, rather  
11 than encourage, participants to report all of their greenhouse gas  
12 emissions in the United States, not just California emissions.

13 (4) To ensure that reported emissions reflect actual emissions,  
14 participants that outsource production or services shall report  
15 emissions associated with the outsourced activity, and remove  
16 these emissions from their emissions baseline. The subcontracted  
17 entity, if it voluntarily chooses to participate in the registry shall  
18 report emissions associated with the outsourced activities it has  
19 taken over. Participants shall attest at least once each year that the  
20 entity has not outsourced any emissions, or that if it has, that all  
21 emissions associated with the outsourced activity have been  
22 reported and subtracted from the entity's baseline emissions.

23 (5) To prevent changes in vertical integration within  
24 corporations from leading to apparent emissions reductions when  
25 in fact no reductions have occurred, the registry shall treat  
26 mergers, acquisitions, and divestitures as follows:

27 (A) The emissions baselines of any merged or acquired entity  
28 shall be added together, and the registry shall treat the resulting  
29 entity as if it had been one corporation from the beginning.

30 (B) In divestitures, the emissions baselines of the affected  
31 corporations shall be split, with the effect that the registry shall  
32 treat them as if they had been separate corporations from the  
33 beginning. If the divested corporation is purchased by another  
34 firm, the registry shall treat that purchase as a merger with the  
35 purchasing corporation. If the divested corporation remains a  
36 separate entity after the divestiture, its registry baseline shall  
37 reflect the emissions associated with the entity's operations before  
38 the divestiture. Corporations that divest operations may allocate  
39 certified emissions results achieved prior to the divestiture among



1 the divesting and the divested entities, and the registry shall adjust  
2 their baselines accordingly.

3 (C) Any adjustments for changes in vertical integration shall be  
4 verified in the annual emissions certifications required for  
5 recordation of emissions results.

6 (6) If a participant changes from statewide to national reporting  
7 under this program, changes to its baseline will be treated in a  
8 similar manner as changes in vertical integration as described in  
9 paragraph (5).

10 (7) To ensure that reported emissions accurately reflect shifts  
11 in operations to or from other states, the registry shall adopt, in  
12 consultation with the State Energy Resources Conservation and  
13 Development Commission, at a public meeting and following at  
14 least one public workshop, reporting procedures for participants  
15 that choose to report greenhouse emissions on a statewide basis  
16 that require participants to show both of the following:

17 (A) Changes in a participant's operations, such as a facility  
18 startup or shutdown, that result in a significant and long-term shift  
19 of greenhouse gas emissions from California to other states or  
20 from other states to California.

21 (B) The corresponding change in the participant's baseline.

22 SEC. 4. Section 42841 of the Health and Safety Code is  
23 amended to read:

24 42841. (a) To support the estimation, calculation, reporting,  
25 and certification of emissions results in a consistent format, the  
26 registry shall adopt standardized forms that all participants shall  
27 use to calculate, report, and certify emissions results, unless an  
28 alternative format is (1) reviewed and recommended by the State  
29 Energy Resources Conservation and Development Commission  
30 and the State Air Resources Board, and (2) adopted by the registry,  
31 and deemed to be consistent with the goals and intent of this  
32 chapter. In cooperation with the State Energy Resources  
33 Conservation and Development Commission, the registry shall  
34 review commonly available emissions tracking software to  
35 determine whether existing software packages are able to generate  
36 reports for the registry.

37 (b) The procedures established for all of the following shall  
38 conform to the requirements of Article 6 (commencing with  
39 Section 42870):



- 1 (1) Establishing electricity and fuel usage and for calculating  
2 associated emissions.
- 3 (2) Mass-balance calculations, stack testing, or continuous  
4 emissions monitoring of greenhouse gases from onsite fuel  
5 combustion are all acceptable ways of reporting greenhouse gases  
6 from onsite fuel combustion.
- 7 (3) Estimating, calculating, reporting, and certifying  
8 noncombustion emissions of the gases listed in paragraphs (1) and  
9 (2) of subdivision (c) of Section 42840.
- 10 (4) Collecting and maintaining data and records of energy, fuel,  
11 and chemical consumption sufficient to allow contemporaneous  
12 and ex post certification of direct and indirect emissions.

